HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.M. No.6052-CI of 2000 in
R.F.A.No.1306 of 1992.

Date of decision : 11.12.2006.

State of Punjab .....Appellant
versus
Gurdial Singh and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Sushant Maini, D.A.G. Punjab for the appellant.
Mr.Amit Jain, Advocate for the applicant-respondent.

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ORDER

HEMANT GUPTA, J. (Oral)

82.24 acres of land including the land in dispute was intended to acquire by the State of Punjab for a public purpose viz. for the construction of Sutlej Yamuna Link Canal, in pursuance of the notification dated 12/13.9.1985. The Land Acquisition Collector awarded compensation of Rs.62,000/- per acre for Chahi land, Rs.50,000/- per acre for Barani land and Rs.35,000/- per acre for Gair Mumkin land, vide award dated 28.3.1986.

Dissatisfied with the compensation awarded by the Land Acquisition Collector, the land owners sought a reference under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court vide award dated 1.2.1991, determined the amount of compensation as Rs.90,000/- per acre for the entire land. Aggrieved against the said award, the State of Punjab filed the present appeal. The land owner-respondent did not file any cross-objection or cross appeal against the award rendered by the learned District Judge, Patiala on 1.2.1991. The present appeal alongwith other connected appeals by the State and cross appeals by other

land-owners, was decided on 10.2.2000, wherein the amount of compensation was enhanced by Rs.10,000/- per acre, while dismissing the appeals of the State.

The present application has been filed by the land owners on 13.11.2000 i.e. after the decision of the appeal on 10.2.2000, to contend that the land owners could not file the appeal on account of old age of the applicant and that in terms of Order 41 Rule 33 of the Civil Procedure Code, 1908 the award be modified and the amount of compensation be enhanced.

After hearing learned counsel for the parties, I do not find any substance in the present application. Admittedly, the applicant-land owner has not filed appeal or cross objection, therefore, the provision of Order 41 Rule 33 will not come to the help of the land owner so as to seek enhancement of the compensation than what has been determined by the learned Reference Court. In terms of Order 41, Rule 33 of the Civil Procedure Code, the Court is competent to modify the relief granted by the learned trial Court, on the ground other than on which the learned trial Court has decided the reference. But the amount can not be enhanced in exercise of the provisions of Order 41 Rule 33 of the Civil Procedure Code. Still further, the jurisdiction under Order 41, Rule 33 CPC could be exercised only at the time of decision of the appeal on 10.2.2000 and not on a separate application filed after the decision of the appeal.

Consequently, the present application is dismissed.

(HEMANT GUPTA)
JUDGE

December 11, 2006
**mohinder*